

Compliance Policy and Procedures Manual

Chapter 9

Miscellaneous



Sales and Use Tax Department
California State
Board of Equalization

This is an advisory publication providing direction to staff administering the Sales and Use Tax Law and Regulations. Although this material is revised periodically, the most current material may be contained in other resources including Operations Memoranda and Policy Memoranda.

Please contact any Board office if there are concerns regarding any section of this publication.

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MISCELLANEOUS**900.000****LOCAL TAXING JURISDICTION REVIEW OF BOARD RECORDS 901.000****BACKGROUND 901.010**

Revenue and Taxation Code Section 7056 (b) allows local taxing jurisdiction(s) (LTJ) and special taxing jurisdiction(s) (STJ) representative(s) to view confidential taxpayer file information pertaining to their LTJ or STJ under specific circumstances. Primarily, the governing board of the jurisdiction must adopt a resolution authorizing an individual or individuals to view confidential material. The resolution must also contain language restricting the use of the acquired information to governmental purposes.

RESOLUTIONS 901.020

The Local Revenue Allocation Section (LRAS) is responsible for determining whether a particular jurisdiction has adopted a valid resolution authorizing their employees and/or consultants to view confidential taxpayer records pursuant to RTC Section 7056. Jurisdiction representatives and consultants may only inspect file information for taxpayers of the jurisdiction they represent. For example, a jurisdiction representative/consultant authorized by a resolution adopted by the City of Sacramento shall only be given access to file information on taxpayers with retail sales locations in, or local tax allocated to, the City of Sacramento. In addition, a representative/consultant may review the file of a taxpayer reporting tax to the jurisdiction's countywide pool and/or statewide pool. Representatives/consultants of STJs with boundaries coterminous with county boundaries, may obtain the countywide pool data for the county in which the STJ is located. Representatives/consultants for the Bay Area Rapid Transit District may obtain the countywide pool data for Alameda County, Contra Costa County, and the City and County of San Francisco. Representatives/consultants of STJs are not authorized to view statewide pool data.

The Refunds Section and district offices should verify with LRAS that representatives/consultants are authorized by a valid resolution prior to allowing them access to confidential file information. This verification may be done by telephone. If LRAS does not have a copy of a valid resolution on file, the representative/consultant must provide a *certified* copy of the document prior to being allowed access to confidential file information, subject to confirmation by the LRAS. The Refunds Section and district office should fax the certified resolution to LRAS for verification that the resolution meets all the administrative criteria required to authorize the representative/consultant. If the resolution does *not* meet the criteria, the representative/consultant should be advised that pending receipt of an acceptable resolution, access to confidential file material must be denied.

Questions regarding the validity of resolutions, or other resolution-related issues should be directed to LRAS.

REQUEST TO REVIEW TAXPAYER RECORDS**901.030**

Requests for review of taxpayer records by jurisdiction representatives or their consultants should be forwarded to the Refunds Section for processing. The Refunds Section will verify that a valid resolution is on file and will order the requested files from the Taxpayer Records Unit for review. The Refunds Section will then review each file to locate and remove any non-disclosable material prior to presenting the file to the requester for review.

The representative/consultant will be required to complete a Form BOE-755, *Authorized Examination of Board Records*, for each file reviewed. The completed BOE-755 should detail the specific documents reviewed, including the time period of returns or other documents. Each completed BOE-755 will then be filed in the file of the account reviewed.

The Refunds Section shall provide space for the examination of files by the representative/consultant in an observable area. Upon request, the Refunds Section will also make copies of file material at no charge to the representative/consultant.

REQUEST FOR TAXPAYER INFORMATION AT DISTRICT OFFICE**901.040**

Requests for information at the district office level by jurisdiction's representatives or consultants should be forwarded to either the District Principal Auditor (DPA) or the Principal Compliance Supervisor (DPCS). The DPA or DPCS will verify with LRAS that a valid resolution is on file. See 901.020 for guidance in situations where a jurisdiction is not listed in "Jurisdictions Having Resolutions." Audit or compliance staff who are contacted directly by a representative/consultant must inform and consult with the DPA or DPCS before acting on the request.

If the request concerns the examination of a district file, if such a file exists, a review of the district file must be made to locate and remove non-disclosable material prior to presenting the file to the requester for review. The representative/consultant shall only be given access to those district files of taxpayers with retail sales locations in or local tax allocated to the jurisdiction for which a valid resolution was passed. Care must be taken to ensure that the representative/consultant is given access only to district file information that pertain to the authorizing jurisdiction and not to any other jurisdiction.

The representative/consultant shall be required to complete a BOE-755 for each file reviewed. The completed BOE-755 should detail what specific documents were reviewed, including the time period of returns or dates of other documents.

The district office will provide space for the examination of files by the representative/consultant in an observable area. Upon request, the district office will also make copies of file material at no charge to the representative/consultant.

The original BOE-755, completed at the district level, should be sent to the taxpayer's file in headquarters. A copy of the BOE-755 may be filed in the taxpayer's district audit or regular file.

NON-DISCLOSABLE INFORMATION**901.050**

“Non-Disclosable information” includes:

- Memoranda to or from the Legal Division marked “Confidential: Attorney — Client Privilege.” (Due to changes in Board policy in this area, not all documents are appropriately marked. If you question whether a document has been appropriately marked as confidential, or believe that a document should be so marked, contact the author of the document or the Legal Division for guidance.)
- Memoranda directly related to litigation in which the Board is a party, including refund and collection actions.
- Memoranda to or from the Attorney General’s office when the Attorney General is acting as the Board’s attorney.
- Documents which relate to an *ongoing* criminal investigation.
- Federal or state income tax returns.
- Any information in the taxpayer’s file that does not pertain to that taxpayer.

Internal memoranda, other than those specified above, are normally not to be regarded as confidential unless so marked. (Due to changes in Board policy in this area, not all documents are appropriately marked. If you question whether a document has been appropriately marked as confidential, or believe that a document should be so marked, contact the author of the document, the Board’s Disclosure Officer in ISAD, or the Legal Division for guidance.)

INSPECTION OF TAXPAYER INFORMATION ON-SCREEN (IRISVACMS)**901.060**

Some representatives/consultants have found it useful to view information concerning specific payments on-screen. If such a request is made, only Board employees should access the information and print out the information for the consultant. Under *no* circumstances should a representative/consultant be given access to the computer terminal. The representative/consultant will be required to complete a BOE-755 for each account accessed from the computer system by the Board employee.

COMPLIANCE POLICY AND PROCEDURES MANUAL

PROCESS FOR REVIEWING LOCAL TAX REALLOCATION INQUIRIES

905.000

DEFINITIONS

905.010

INQUIRING JURISDICTIONS AND THEIR CONSULTANTS (IJC)

905.011

Means any city, county, city and county, or transactions and use tax district of this state which has adopted a sales or transactions and use tax ordinance and which has entered into a contract with the Board to perform all functions incidental to the administration or operation of the sales or transactions and use tax ordinance of the city, county, city and county, or transactions and use tax district of this state. Except for submittals under Revenue and Taxation Code section 6066.3, IJC also includes any consultant that has entered into an agreement with the city, county, city and county, or transactions and use tax district, and has a current resolution filed with the Board which authorizes one (or more) of its officials, employees, or other designated persons to examine the appropriate sales, transactions, and use tax records of the Board.

CLAIM (INQUIRY) OF INCORRECT OR NON-DISTRIBUTION OF LOCAL TAX 905.012

Except for submittals under Revenue and Taxation Code section 6066.3, "claim or inquiry" means a written request from an IJC for investigation of suspected improper distribution of local tax. The inquiry must contain sufficient factual data to support the probability that local tax has been erroneously allocated and distributed. Sufficient factual data must include at a minimum all of the following for each business location being questioned:

1. Taxpayer name, including owner name and fictitious business name or d.b.a. (doing business as) designation.
2. Taxpayer's permit number or a notation stating "No permit number."
3. Complete business address of the taxpayer.
4. Complete description of taxpayer's business activity(ies).
5. Specific reasons and evidence why the taxpayer's allocation is questioned. (In cases where it is submitted that the location of the sale is an unregistered location, evidence that the unregistered location is a selling location or is a place of business, as defined by Regulation 1802, must be submitted. In cases that involve shipments from an out-of-state location and claims that the tax is sales tax and not use tax, evidence must be submitted that there was participation by an in-state office of the out-of-state retailer and that title to the goods passed in this state.)
6. Name, title, and phone number of the contact person.
7. The tax reporting periods involved.

DATE OF KNOWLEDGE

905.013

Shall be the date the inquiry of suspected improper distribution of local tax that contains the facts stated above is received by the Board, unless an earlier such date is operationally documented by the Board. If the IJC is not able to obtain the above minimum factual data, but provides a letter with the inquiry documenting IJC efforts to obtain each of the facts required above, the Board will use the date this inquiry is received as the date of knowledge.

BOARD MANAGEMENT

905.014

Consists of the Executive Director, Chief Counsel, Assistant Chief Counsel for Business Taxes, and the Deputy Director of the Sales and Use Tax Department.

SUBMITTING INQUIRIES**905.020**

To expedite processing, requests should be submitted by the inquiring jurisdiction or consultant (IJC) on Form BOE-549-L, *Claimed Incorrect Distribution of Local Tax - Long Form*, or BOE-549-S, *Claimed Incorrect Distribution of Local Tax - Short Form*. The BOE 549-L is used for complex local tax reallocation issues such as sales tax vs. use tax, place of sale, or other complex issues where more information is needed. The BOE 549-S is used for simple tax reallocation questions having to do with taxpayers' business addresses or other less complex matters. These forms are available on the BOE website. All inquiries are to be sent directly to headquarters, rather than to a district office. Inquiries should be mailed to:

Allocation Group
Board of Equalization
450 N Street, MIC 39
P.O. Box 942879
Sacramento, CA 94279-0039

(For inquiries under Revenue and Taxation Code section 6066.3, see CPPM 905.090)

ACKNOWLEDGMENT OF INQUIRY/DATE OF KNOWLEDGE**905.030**

It is the Allocation Group's Policy to acknowledge inquiries within 30 calendar days of receipt by the Board. Inquiries will be logged in by permit number (if any), jurisdiction (if known), and consultant firm (if any).

If the inquiry contains sufficient factual data to support the probability that local tax has been erroneously allocated and distributed (as stated above under the definition for Claim/Inquiry of Incorrect or Non-Distribution of Local Tax, CPPM 905.010), the date of knowledge will be the date the inquiry was received by the Board unless there is an earlier date operationally documented by the Board.

An inquiry is "operationally documented" by the Board when a Board employee questions the allocation based on information contained in Board files (see CPPM 905.070). In such cases, the date of knowledge will be the date the employee questions the allocation, not the date of the information contained in Board files. Since there should be written evidence establishing the date on which the Board obtained knowledge of an improper distribution, this date of knowledge should be properly documented and any applicable forms, such as Form BOE-523, Tax Return and/or Account Adjustment Notice, (see CPPM 335.000) should be completed.

As noted in CPPM 905.090 below, an inquiry received from an IJC that is a duplicate of one submitted by the same city to a district office pursuant to Revenue and Taxation Code Section 6066.3 will not be processed. In such case, the date of knowledge established under section 6066.3 will control.

If the inquiry does not contain sufficient facts, and if the IJC has made a good faith effort to obtain sufficient facts but has been unable to do so, the IJC should include a letter with the inquiry, indicating what it has done to obtain those facts. If such a letter is provided and accepted, the Board will use the date the inquiry was received as the date of knowledge.

NOTIFICATION OF RESULTS**905.040**

After an inquiry has been reviewed, the IJC will be notified of the results.

APPROVED REALLOCATIONS**905.041**

If staff's investigation confirms a misallocation and the recommended reallocation is less than five thousand dollars, a fund transfer will be processed.

All recommended reallocations over five thousand dollars (\$5,000) must be approved by the auditor's supervisor. Reallocations based on inquiries over twenty-five thousand dollars (\$25,000) must be approved by the Refund Section Supervisor. Reallocations based on inquiries over fifty thousand dollars (\$50,000) must be approved by the Headquarters Operations Manager. Once the reallocation is approved at the appropriate level, the fund transfer will be processed. A monthly recap of all approved reallocations will be maintained.

DENIED REALLOCATIONS**905.042**

If the auditor recommends that the reallocation request be denied, his or her supervisor will review the recommendation. If the supervisor upholds the denial, the IJC can request subsequent review by the Refund Section Supervisor, the Local Tax Appeals Auditor, and subsequently by a Board Management team, as described below. The IJC can also file a petition for hearing by the Board after the staff's process is complete, as described below.

REVIEW PROCESS**905.050****AUDITOR'S INVESTIGATION****905.051**

Inquiries accepted for investigation will be coded for type of misallocation and assigned to an auditor. Assignments may coincide with investigations handled by the Local Revenue Allocation Section. The auditor will attempt to resolve all inquiries through communication with the taxpayers including contacting the "contact person" identified in the IJC inquiry or other such taxpayer personnel. If for some reason a satisfactory response cannot be obtained, the inquiry may be referred to the appropriate district office for action. Whenever any action is taken, such as writing to the taxpayer for information or, if necessary, referring the inquiry to the district office, this action will be noted in the log with the appropriate follow-up date (45 days for taxpayers, 60 days for in-state district offices, and 90 days for out-of-state district offices). A copy of any correspondence will be sent to the IJC. The follow-ups for each week will be distributed each Monday morning to the auditor for appropriate action.

Note that if at any level of review prior to the Board hearing, it is determined that additional staff investigation is warranted prior to making a decision, a request for such investigation should be directed to the appropriate district office or Board auditor and the IJC will be notified of the results.

REVIEW BY THE ALLOCATION GROUP SUPERVISOR**905.052**

The Allocation Group will investigate all accepted inquiries. If the Allocation Group concludes that a misallocation has not occurred and recommends that a request for reallocation be denied, the IJC will be notified of the recommendation and allowed 30 days from the date of mailing of the notice of denial to contact the Allocation Group Supervisor to discuss the denial. (Note: with assignments that may coincide with investigations handled by the Local Revenue Allocation Section, the Supervisor of the Local Revenue Allocation Section may be consulted. The Allocation Group's notification that a misallocation has not occurred must state the specific facts on which the conclusion is based. If the IJC contacts the Allocation Group Supervisor, the IJC must state the specific facts on which its disagreement is based, and submit all additional information in its possession at the time that supports its position.

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REVIEW BY THE REFUND SECTION SUPERVISOR**905.053**

If the Allocation Group Supervisor upholds the denial, the IJC will be advised in writing of the decision and that it has 30 days from the date of mailing of the decision to file a "petition for reallocation" with the Refund Section Supervisor. The petition for reallocation must state the specific reasons for disagreement with the Allocation Group Supervisor's findings. The Refund Section Supervisor will review the request for reallocation and will determine if any additional staff investigation is warranted prior to making a decision. If no basis for adjustment is found, the complete record containing all documentation in the file related to the specific appeal will be forwarded to the Local Tax Appeals Auditor and the IJC will be mailed copies of documentation related to the specific appeal that were not previously provided, consistent with confidentiality requirements (see CPPM 901.050 Non-Disclosable Information.)

REVIEW BY THE LOCAL TAX APPEALS AUDITOR**905.054**

After the petition is forwarded to the Local Tax Appeals Auditor, a conference between the Local Tax Appeals Auditor and the IJC will be scheduled. The IJC may, however, at its option, provide a written brief in addition to, or instead of, attending the conference. If a conference is held, the Local Tax Appeals Auditor will consider oral arguments, as well as review material previously presented by both the IJC and the Sales and Use Tax Department (SUTD). Unless the Local Tax Appeals Auditor determines that there is the need for additional investigation he or she will base his or her decisions on the IJC's brief, Board staff input, and the information contained in the record. The Local Tax Appeals Auditor will prepare a written Decision and Recommendation (D&R) detailing the facts and law involved and the conclusions reached. The D&R will be sent to the IJC and the SUTD.

REVIEW BY BOARD MANAGEMENT**905.055**

If the D&R's recommendation is to deny the petition, the IJC will have 30 days from the date of mailing of the D&R to file a written request for review of the D&R with Board management. The request must state the specific reasons for disagreement with the D&R and include any additional information that supports its position. Board management will only consider the petition and will not meet with the IJC. The IJC will be notified in writing of the Board management's decision. If a written request for review of the D&R is not filed with Board management within the 30-day period, the D&R becomes final at the expiration of that period.

REVIEW BY BOARD MEMBERS**905.056**

If Board management's decision is adverse to the IJC, the IJC may file a petition for hearing by the Board. The petition for hearing must state the specific reasons for disagreement with Board management's findings.

PETITION FOR HEARING**905.057**

The IJC shall file a petition for hearing with the Board Proceedings Division within 90 days of the date of mailing of Board management's decision. If a petition for hearing is not filed within the 90-day period, the Board management's decision becomes final at the expiration of that period.

PERSONS TO BE NOTIFIED OF THE BOARD HEARING**905.058**

After receiving the IJC's petition for hearing, the Board Proceedings Division will notify the IJC and the following persons of the Board hearing:

1. The taxpayer(s) whose allocations are the subject of the petition.
2. All jurisdictions that would be substantially affected if the Board does not uphold the taxpayer's original allocation (including the jurisdictions within the statewide and countywide pools that would gain or lose money solely as a result of a reallocation to or from the pools in which they participate). A jurisdiction is "substantially affected" if its total reallocation would increase or decrease by the amount of 5% of its average quarterly allocation (generally, the prior four calendar quarters) or \$50,000, whichever is less, as a result of a reallocation of the taxpayer's original allocation.

The notification letter will state that the claimed misallocation is being placed on the Board's Hearing Calendar to determine the proper allocation and that the IJC and all jurisdictions so notified are considered parties to the hearing.

THE HEARING AND PARTIES TO THE HEARING**905.059**

The petitioning IJC and all jurisdictions notified of the Board hearing pursuant to the prior section are parties to the Board hearing. The taxpayer, however, shall not be considered a "party" within the meaning set forth above unless it actively participates in the hearing process by either filing a brief or making a presentation at the hearing. The hearing shall be conducted in accordance with Regulations 5070 to 5087 of the [Rules of Practice](#). The Board will make a final decision at the hearing on the proper allocation. The Board's decision exhausts all parties' administrative remedies on the matter.

The Headquarters Local Revenue Allocation Section (LRAS) is responsible for maintaining a threshold notification list with the computed threshold notification amount and pool percentages for each jurisdiction. This list is reviewed and updated by LRAS once every calendar year. For questions regarding this threshold list contact the LRAS.

TIME LIMITATIONS**905.060**

An IJC will be limited to one 30-day extension of the time limit established for each level of review through the Board management level.

If action is not taken beyond acknowledgment on any inquiry for a period of six months at any level of review, the IJC may request advancement to the next level of review. For the purpose of these procedures, "action" means taking the steps necessary to resolve the inquiry.

By following the time limits set forth above, any date of knowledge established by the original inquiry will remain open even if additional supporting information is provided prior to closure. If the time limits or any extensions are not met, or if closure has occurred, any additional supporting documentation submitted will establish a new date of knowledge as of the date of receipt of the new information.

**APPEAL RIGHTS OF JURISDICTIONS THAT WILL
LOSE REVENUE AS THE RESULT OF A REALLOCATION****905.070**

If at any time during the process prior to the Board hearing, the Board's investigation determines that a misallocation has occurred, any jurisdiction that will lose 5% of its average quarterly allocation (generally, the prior four calendar quarters) or \$50,000, whichever is less, will be informed of the decision and be allowed 30 days from the date of mailing of the notice, to contact the Allocation Group to discuss the proposed reallocation. The losing jurisdiction may follow the same appeals procedure as described in CPPM 905.050 and CPPM 905.060. "Losing jurisdiction" includes a gaining jurisdiction where the original decision in favor of the gaining jurisdiction was overturned in favor of a previously losing jurisdiction. The reallocation will be postponed until the period for the losing jurisdiction to request a hearing with the Allocation Group has expired. If the losing jurisdiction contacts the Allocation Group prior to the Board hearing, and subsequently petitions the proposed reallocation, the reallocation postponement will be extended pending the outcome of the petition.

There are times when Board staff becomes aware of a misallocation through independent means, such as an audit of a taxpayer, review of a return, a letter from a taxpayer or his or her representative or in some other manner. In these situations jurisdictions losing 5% of its average quarterly allocation (generally, the prior four calendar quarters) or \$50,000, whichever is less, will be informed of the proposed reallocation, and if a delay is requested, allowed 30 days to request a meeting with the Allocation Group Supervisor. These jurisdictions may follow the appeals procedure described in CPPM 905.050.

LIMITATION PERIOD FOR REDISTRIBUTIONS**905.080**

Redistributions shall not include amounts originally distributed earlier than two quarterly periods prior to the quarterly period in which the Board obtains knowledge of the improper distribution.

APPLICATION TO SECTION 6066.3 INQUIRIES**905.090**

The procedures set forth above for submitting information to the Board concerning improper distributions are in addition to, but separate and apart from, any procedures established under the authority of Revenue and Taxation Code section 6066.3 for making inquiries regarding improper distributions. If inquiries regarding suspected improper distribution of local tax are received both under the procedures set forth above and section 6066.3, duplicate inquiries will not be processed. A subsequent inquiry will not be considered a "duplicate inquiry" when that subsequent inquiry does not contain the same reasons for error as in another inquiry for the same taxpayer by the same city. The date of the earliest inquiry shall be controlling as to whether the request is to be handled under the provisions set forth above or section 6066.3, and the date of knowledge shall be established under the controlling procedure.

The terms and procedures starting with the review by the Refund Section Supervisor up to and including the review and final decision by the Board Members shall also apply to appeals from reallocation determinations made under Revenue and Taxation Code section 6066.3.

The provisions set forth above shall apply to reallocation inquiries and appeals filed after January 1, 2003. Inquiries and appeals filed prior to this date shall continue to be subject to existing inquiries and appeals procedures contained in the "Process for Reviewing Reallocation Inquiries" (June 1996, amended October 1998). However, for inquiries filed prior to January 1, 2003, the IJC may elect in writing to proceed under the provisions set forth above as to appeals not already decided or initiated. In such cases, failure to make such written election prior to appealing to the next step of review under the existing procedures shall constitute an election not to proceed under the provisions set forth above. If written election to proceed under the provisions set forth above is made, the provisions set forth above become applicable the date the election is received by the Board. Neither election shall be subject to revocation.

COMPLIANCE POLICY AND PROCEDURES MANUAL

KNOWLEDGE OF INCORRECT LOCAL TAX ALLOCATIONS OTHER THAN FROM INQUIRIES BY LOCAL JURISDICTIONS AND CONSULTANTS

906.000

The Board of Equalization will be considered to have knowledge of an improper distribution when an employee of the Board has such knowledge. To establish a date of knowledge (DOK), there must be sufficient factual data to indicate the probability that local tax has been erroneously allocated (see CPPM 905.010 and Regulation 1807 (a)(2)).

A DOK of improper distribution can be established using either of the following two methods:

- The Board receives an inquiry from a local jurisdiction or its representative (see CPPM 905.000).
- An employee of the Board in the course of his or her duties (e.g., field audit or investigation or review of a return) discovers factual information sufficient to support the probability that an erroneous allocation of local tax may have occurred, and that allocation is questioned by the Board employee. A DOK is established as of the date the employee questions the allocation (see CPPM 906.020). This date shall be considered "operationally documented by the Board" - see RTC 1807(a)(3) and CPPM 905.030).

There should be written evidence establishing the date on which the Board obtained knowledge of an improper distribution. Therefore, this date of knowledge shall be properly documented on the appropriate letter, memo, or applicable forms.

FACTS IN THE RECORDS OF THE BOARD

906.010

Facts already in the records of the Board do not in and of themselves constitute knowledge of an erroneous local tax allocation. Such knowledge arises when the taxpayer, an employee of the Board, an Inquiring Jurisdiction and Their Consultant (IJC), or some other person questions the correctness of the local tax allocation.

To constitute knowledge by the Board, it is not necessary that the employee of the Board obtaining the knowledge be absolutely certain that the local tax allocation was erroneous. For example, the employee may refer the information upon which the decision is based to the supervisor or to headquarters for final decision or the employee may secure additional information from the taxpayer. It is not necessary to know the specific amount of tax or tax measure involved at the time knowledge of an improper distribution is first obtained. This may be determined later.

FACTS DISCOVERED DURING A FIELD AUDIT OR INVESTIGATION

906.020

There should be written evidence establishing the date on which the Board obtained knowledge of an improper distribution.

If during the course of a field audit or field investigation a Board employee becomes aware that there is a probability of an erroneous local tax allocation, the DOK will be the first day the Board employee became aware of such probability that the local tax was erroneously allocated. It is not necessary to complete the investigation or the audit to establish a DOK.

The Board employee should write a memorandum describing the type of error that occurred and the type of transaction involved and complete appropriate forms as needed. Specific amounts of tax or measure need not be included. The Board employee shall date and sign the memorandum. The memorandum shall become part of the audit working papers or field investigation report. On the local tax reallocation schedule submitted with the report of field audit there should be stated the date on which the Board obtained knowledge of the erroneous allocation. (See Audit Manual 0209.27.)

FACTS DISCOVERED DURING REVIEW OF A RETURN**906.030**

If during the course of a review of a Sales and Use Tax Return the Board becomes aware that there is a probability of an erroneous local tax allocation, the DOK will be the first day the employee became aware of such probability that the local tax was erroneously allocated. This DOK will only apply to the particular questioned jurisdictions on the return even though it may later be found that there are additional erroneous allocations on the same return. Different dates of knowledge shall be established if the employee becomes aware of additional misallocations.

LIMITATION PERIOD**906.040**

Section 7209 of the Bradley-Burns Uniform Local Sales and Use Tax Law provides as follows:

The Board may redistribute tax, penalty and interest distributed to a county or city other than the county or city entitled thereto, but such redistribution shall not be made as to amounts originally distributed earlier than two quarterly periods prior to the quarterly period in which the Board obtains knowledge of the improper distribution.

When the Board verifies improper distributions reported on returns, redistributions may be processed for amounts originally distributed no more than two quarterly periods preceding the quarterly period in which the Board obtains a DOK. Since local tax is generally distributed during the quarter following the period for which tax is reported, redistributions are usually processed for the three quarters immediately preceding the calendar quarter in which the DOK is acquired. For example, City A notifies the Board in a letter received on March 15, 1999, that Taxpayer X opened a business in that city in February 1998, but no tax has been allocated to that city from that taxpayer. The Board investigates the city's inquiry, finds that the city is correct, and that this taxpayer's local tax has been improperly allocated to City B. The investigation is completed on April 2, 1999. Although the verification is not made until the second quarterly period, the DOK (March 15) is in the first quarterly period. Accordingly, the Board will redistribute (reallocate) the local tax from City B to City A for the second, third, and fourth quarters 1998.

The Board cannot distribute local tax until payment is received from the taxpayer. A taxpayer may file a return and properly submit all required local tax allocation schedules, but if the taxpayer does not remit any funds, (called a "no remittance" return) there is no revenue to distribute. However, when these funds are remitted, they will be distributed in accordance with the taxpayer's return. Sometimes after distribution, it is discovered that the tax was not allocated in the appropriate manner. When questions arise involving the manner in which the tax was allocated, it is the period in which the tax was distributed rather than the period for which the tax was reported that is relevant. Revenue and Taxation Code section 7209 provides that redistribution of the local tax can be made for two quarterly periods prior to the quarterly period in which the Board obtains knowledge of the improper distribution. This means that any local tax distributed during the previous two quarters may be considered for redistribution. The date of distribution can be found under IRIS on the FND VA screen.

LIMITATION PERIOD**(CONT.) 906.040**

The following schedule shows the cash receipt dates of the distributions made during a typical four-quarter period. The term "Cash Receipt Date" means the date on which the Board receives a taxpayer remittance. The term "Distribution" means the payment of revenue to local jurisdictions and special tax districts. Since the cut-off date for each quarterly distribution is established as the ninth working day following the due date for quarterly returns, the actual cut-off date may vary in each year due to intervening week-ends or holidays. Nevertheless, this schedule may be used as a guide in determining the quarter of distribution for payments received with returns on a yearly or irregular basis, delinquent returns, or as a result of a billing:

Cash Receipt Date	Quarter of Distribution
Feb. 13 - May 13	2nd Quarter
May 14 - Aug. 13	3rd Quarter
Aug. 14 - Nov. 13	4th Quarter
Nov. 14 - Feb. 12	1st Quarter

Revenue received with delinquent returns or in payment of a billing based on an incorrect return, field audit, or investigation presents a different problem. As previously stated, distributions made in one quarter cover tax reported on returns for the previous quarter. They also include revenues in payment of delinquent returns, and billings such as Audits and FBO's, etc., which were received at the same time. Therefore, with respect to these latter payments, the limitation on amounts subject to redistribution may extend beyond the usual period.

DISTRICT OFFICE RESPONSIBILITY**906.050**

As previously stated, the district office employee who discovers an error in the allocation of local tax should record the date that knowledge of the error was obtained.

If an error in allocation of local tax is discovered, the auditor or field representative should confine his or her report of the necessary redistribution to amounts originally distributed within the limitation period provided by section 7209 of the Bradley-Burns Local Sales and Use Tax. Generally, this will consist of tax reported for the three quarters immediately preceding the quarter in which the error was discovered unless the district office file contains evidence of late returns and payments on billings, in which case, the extent of the limitation period should be determined by the schedule in CPPM 906.040. If there is any question regarding the extent of the limitation period, the auditor or field representative should report only tax for the aforementioned three quarterly periods and depend on headquarters' review for notification if additional information is needed. However, every effort should be made to determine all amounts to be redistributed during the original field investigation. Good judgement should be exercised to avoid spending any appreciable time on inconsequential adjustments. For additional instructions regarding Form BOE-414-L Auditor's Work Sheet Local Sales and Use Tax Allocation - see Audit Manual 0209.000.

HEADQUARTERS RESPONSIBILITY**906.060**

Redistributions in Headquarters will be subject to the same review as redistributions that are received from district offices.

ALLOCATION GROUP

In general, the Allocation Group will make all redistributions of local tax as a result of Inquiries from Jurisdictions and/or Consultants (IJC). The Allocation Group has the responsibility to examine all reports of errors in distribution that are received from district offices (Board audits, reaudits, FBO's, inquiries from IJC's, and inquiries filed under section 6066.3) and verify by an examination of the master file, or any other records in Headquarters, that the report includes all amounts within the limitation period. If this examination discloses that the limitation period extends beyond the point covered by the report, and information regarding the amount to be redistributed cannot be determined from the records in Headquarters, the necessary additional information will be requested from the district office.

LOCAL REVENUE ALLOCATION SECTION

The Local Revenue Allocation Section handles redistributions of local tax discovered during reviews of returns (CPPM 906.030), as well as redistributions resulting from corrections to the Tax Area Codes, exclusive of Board audits, reaudits, FBO's, inquiries from IJC's (see CPPM 905.000), and inquiries filed under section 6066.3 (see CPPM 905.090).

ACCOUNT FOLDER DESTRUCTION**910.000****HEADQUARTERS RESPONSIBILITY****910.010**

The headquarters Taxpayer Records Unit requests the Technology Services Division to produce a listing that represents all those accounts meeting the following criteria:

1. Process date of close-out at least 7 months old
2. No balance
3. No delinquency
4. No petition status or refund claims, or active appeals cases
5. No security
6. No active legal claim
7. No Attorney General status

Upon receiving the list, the headquarters Taxpayer Records Unit (Deletions) will review the files for pending legal actions and denial of claims for refund. If an account is clear, the file is forwarded to the State Records Center for storage and scheduled destruction after 3 years. The file destruction date will appear on the registration record. If the account is not clear, a new file destruction date is established by processing through the TAR SU screen. These accounts will come up on a new list from the Technology Services Division 7 months after the new file destruction date.

A report of the accounts sorted by district office is provided to the Taxpayer Records Unit who distributes the appropriate report to each field office.

DISTRICT ACCOUNT FOLDER DESTRUCTION**910.020**

Districts are authorized to destroy their account folders one year past the process date of closeout of the account if the account is clear. The review of closed-out accounts for balance, security, delinquency, petitions, pending legal action and claims for refund will be done by headquarters and is not to be duplicated by the field. Districts will review for all other items, such as pending audits, pending determinations, etc., and maintain a control record of all closed-out account folders retained after headquarters notification that the account is clear.

DISTRICT PROCEDURE**910.030**

The listing produced by the Technology Services Division will be used by district office compliance personnel as a guide to pull the account files to be reviewed for destruction. The review will determine if recommended audits have been made and billed, and if any other activity remains on the account. The last audit report and audit working papers are to be placed in the successor file. Any prior audit reports and audit working papers should be referred to the audit staff. The audit staff will review the account and, if there is no pending activity, ask the taxpayer if they wish to have the papers.

If the district determines the account file is to be destroyed, the requirements set forth in the State Administrative Manual (SAM) must be followed. Those districts whose branch offices also maintain account files should use the listing as a means of notifying their branches of account folders to be destroyed.

When an account file is to be retained, it will be the district's responsibility to establish a control record, which will bring the account file to its attention for subsequent review. The listing, properly noted, may be used for a follow-up file of account records to be retained.

DISTRICT ACCOUNT FOLDERS DESTROYED IN ERROR

910.040

The district will not duplicate the review made by the headquarters units.

If the district account file is destroyed and it is later found to be needed in whole or part, Taxpayer Records Unit, upon request, can reconstruct the file up to 2 years from the date the district received the list.

The following can be reconstructed:

1. Information that was not filed at the time of destruction.
2. Returns that have been microfilmed.
3. Any information online including account receivable, security, and notices and determinations mailed to the taxpayer.

SALES & USE TAX EXEMPTION FOR FOREIGN DIPLOMATS**930.000****GENERAL****930.010**

Effective February 15, 1986, the U.S. Department of State began issuing Tax Exemption Cards to foreign diplomatic personnel who are exempt from sales and use tax. The sales and use tax exemption is granted on the basis of reciprocity with foreign governments and the Department of State grants tax immunity to diplomatic personnel of each foreign country only to the extent that the foreign country, in fact, grants immunity to U.S. diplomatic personnel. Many diplomatic personnel who enjoyed an exemption from sales and use taxes under the former program (in which cards were issued by the Board) have been denied immunity entirely. Many others are granted an exemption only for single transactions, which exceed an amount stated on the card.

The purchase of a vehicle by a foreign consular officer who does not hold a Tax Exemption Card will be exempt from the sales and use taxes if an identification letter is furnished directly to the retailer by the Office of Foreign Missions, U.S. Department of State. Such letter must confirm the name, immune status, identification number, and date of assumption of duties of the diplomat seeking the exemption and must be furnished to the retailer at the time of the sale.

Retailers with questions which are outside the scope of Board responsibilities should be advised to write: Office of Foreign Missions, U.S. Department of State, Room 2442, Washington, DC 20520.

Reference: Regulation 1619

TAX EXEMPTION CARDS**930.020**

Tax exemption cards issued by the U.S. State Department are laminated and prepared on press numbered stock. They are fraud resistant, tamper proof and nontransferable. Each card includes the name of the person to whom it is issued, personal identification information, a photograph, an expiration date, and a tax exemption number. The cards will specify either that the holder of the card is exempt from sales tax on all sales or that the holder of the card is exempt from sales tax only on transactions which exceed an amount stated on the card.

Some cards provide that the exemption applies only when the total of all items purchased in a single transaction (that is, on a single bill) exceeds a threshold amount of \$50, \$100, \$150, \$200, or some other amount. For example, if the tax exemption card is granted for a minimum level of exemption of \$50, as indicated on the card, the purchaser must purchase merchandise aggregating over \$50 in a single transaction to qualify for taxable and non-taxable merchandise, i.e., a sale of cigarettes for \$6 is exempt if sold together with \$45 non-taxable food products. Separate purchases in the same store will not qualify if the amount of each transaction does not exceed the amount indicated on the card, even though the combination of all individual purchases in that store may exceed that amount.

Mission Tax Exemption cards are subject to the same restrictions as individual cards. Moreover, mission cards may be used only for official purchases; they may not be used for individual, personal purchases.

The U.S. State Department will provide the Board with quarterly printouts of current card holders and will respond to telephone inquiries regarding the validity of cards issued in the interim on a routine basis. The printouts will be maintained in the Headquarters Program Planning Division, Special Projects Team. Any questions regarding the validity of a card should be directed to that unit.

TAIWAN DIPLOMAT TAX EXEMPTION CARDS**930.025**

The United States' Taiwan Relations Act established a nonprofit corporation called the American Institute in Taiwan, which functions much like a foreign embassy. The Act also exempted the Institute from any taxes imposed by any state or local taxing authority. Pursuant to the Act, the United States Department of State issues a tax exemption card to members of the Institute.

Sales or use tax does not apply to the sale or use of personal property sold to Taiwan diplomats holding a tax exemption card, to the level of exemption stated on the card. Questions regarding the status of a tax exemption card of a Taiwan diplomat may be made by telephone to the American Institute in Taiwan at (703) 525-8474. The fax number is (703) 841-1385. The address is 1700 N. Moore St., 17th Floor, Arlington, VA 22209.

SUPPORTING DOCUMENTATION**930.030**

To support the exemption, the retailer must prepare and retain an invoice or other written evidence of the sale and should enter the name of the purchaser, the number of the exemption card, the name of the foreign mission, the expiration date of the card, and the minimum level of exemption specified on the card, if any.

To support each transaction claimed as an exempt sale of a vehicle to a foreign diplomat not holding a Tax Exemption Card, the identification letter from the Office of Foreign Missions, U.S. Department of State, confirming the immune status of the diplomat must be retained by the retailer.

Retailers who have any questions regarding the identification of the bearer may ask to see additional forms of identification, such as Diplomatic ID, Driver's License, etc.

STATE AND LOCAL BUSINESS LICENSE REQUIREMENTS**940.000****GENERAL****940.010**

The State of California, Technology, Trade, & Commerce Agency, Office of Small Business publishes a California Professional and Business License Handbook that lists all state agencies and the various licenses required by each. This handbook is available for purchase by contacting the above department, and can be viewed on their website at www.commerce.ca.gov. In addition, most State agencies also have Internet websites. These websites can be accessed at www.ca.gov (look under quick hits-state agency index). The following suggestions show the more common types of licenses and permits that may be required by the applicant in addition to the Board permit(s). Please note: This is an incomplete list and you are strongly urged to refer to the above handbook.

STATE BUSINESS LICENSES**940.020****1. Department of Alcoholic Beverage Control**

- Licenses the manufacture, sale, purchase, possession and transportation of alcoholic beverages within the State.

2. Board of Chiropractic Examiners

- Licenses chiropractors.

3. Department of Conservation

- Certifies recycling centers
- Issues permits to oil, gas, or geothermal exploration and production firms.

4. Department of Consumer Affairs**a. Architects Board**

- Registers architects and building designers.

b. Athletic Commission

- Licenses all clubs conducting boxing and wrestling shows.

c. Board of Behavioral Science Examiners

- Licenses clinical social workers, marriage counselors, and educational psychologists.

d. Cemetery Board

- Licenses cemeteries, cemetery brokers, and cemetery salespersons.

e. Contractors' State License Board

- Licenses contractors and persons engaged in the home improvement industry.

f. Board of Barbering and Cosmetology

- Licenses barbers and cosmetologists.

g. Board of Dental Examiners

- Licenses dentists.

h. Board of Funeral Directors and Embalmers

- Licenses funeral directors and embalmers.

i. Board of Guide Dogs for the Blind

- Licenses schools and persons engaged in the training and supplying of guide dogs for the blind.

STATE BUSINESS LICENSES

(CONT. 1) 940.020

- j. Landscape Architect Technical Committee
 - Licenses landscape architects.
- k. Medical Board of California
 - Licenses physicians and surgeons.
 - Licenses dispensing opticians.
 - Registers contact lens dispensers.
- l. Board of Optometry
 - Licenses optometrists.
 - Accredits schools of optometry.
- m. Board of Pharmacy
 - Licenses pharmacists.
- n. Board for Professional Engineers and Land Surveyors
 - Registers professional engineers.
 - Licenses land surveyors.
- o. Board of Registered Nursing
 - Accredits schools of nursing
- p. Structural Pest Control Board
 - Licenses persons engaged in the practice of structural pest control.
- q. Veterinary Medical Board
 - Licenses veterinarians.
 - Registers all veterinary premises.

5. Department of Financial Institutions

- Licenses banks, credit unions, and savings and loan associations.

6. Department of Fish and Game

- Licenses fishing and party boats.
- Licenses commercial fishermen.
- Licenses hunting and fishing guides.
- Licenses hunting clubs.

7. Department of Food and Agriculture

- Licenses feed manufacturers.
- Licenses fertilizer manufacturers.
- Licenses retail sellers of some livestock drugs.
- Licenses horse meat and dog food dealers.
- Licenses poultry slaughtering and processing plants.
- Licenses milk product and processing plants.
- Licenses persons engaged in pest control for hire.
- Licenses pesticide dealers.
- Licenses individuals involved with selling nursery stock.

8. Department of Forestry and Fire Protection

- State Fire Marshal.
- Licenses timber or logging firms (including Christmas trees for commercial purposes).

9. Department of General Services (Small Business Office)

- Licenses businesses wanting to sell to state or bid on state construction contracts under small business preference.

10. Department of Health Services

- Licenses bottlers and distributors of bottled water and vending machines. (Food and Drug Branch)
- Licenses hospitals and narcotic treatment.

11. California Horse Racing Board

- Licenses race track operators.

12. Department of Housing and Community Development

- Licenses salespersons, dealers, distributors, and manufacturers of mobilehomes, manufactured homes and commercial coaches.

13. Department of Insurance

- Corporate Affairs Bureau — Home Protection Companies, Motor Clubs, Fraternal Benefit Societies.
- Licenses insurance agents, bail bond agents, permittees, and solicitors.

14. Department of Motor Vehicles

- Licenses dealers selling automobiles, trucks, recreational vehicles, motorcycles, trailers, and snowmobiles (new or used).
- Licenses auto wreckers and auto body shops which dismantle vehicles.
- Licenses motor vehicle distributors.
- Licenses firms transporting vehicles using state highways.
- Licenses driving schools and instructors.

15. Osteopathic Medical Board of California

- Licenses osteopathic physicians and surgeons.

16. Secretary of State

- a. Filing articles of incorporation (Corporation).
- b. Filing organizational documents for business entities formed in California and business entities formed in other states that are engaged in business in California.
- c. Filing documents amending organizational documents, documents dissolving, merging, or converting business entities.
- d. Partnerships (General and Limited).
- e. Limited Liability Companies (LLC), Limited Liability Partnerships (LLP)
- f. Trade name registration.
- g. Trademark/Service Mark application.
- h. Uniform Commercial Code (UCC) filings.

STATE BUSINESS LICENSES

(CONT. 3) 940.020

17. California Department of Social Services

- Licenses child and adult daycare centers.
- Licenses residential care facilities, e.g. for the elderly, chronically ill.
- Licenses group homes.
- Licenses foster family homes.

LOCAL BUSINESS LICENSES**940.030**

Many local cities and counties have websites. Cities can be accessed at www.ci.sacramento.ca.us and counties can be accessed at www.co.sacramento.ca.us (use the link for "Need Government Information?" to access other cities and counties). The website address for the IRS is www.irs.ustreas.gov and for the Franchise Tax Board (FTB) it is www.ftb.ca.gov.

1. City and/or county business license (business license section of city or county clerk).
2. Local law enforcement agencies (issue permits for dance, entertainment, etc.).
3. City or county health department (issues permits/clearances for businesses dealing in food products and also some health facilities).

Internal Revenue Service (IRS)

1. Issues Federal employer identification number (FEIN) to corporations, partnerships, limited liability companies, trusts (other than revocable trusts).
2. Issues FEIN to sole proprietorships who must obtain FEIN if it has employees or who may otherwise request it.